IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1233 of 2001
in
SPECIAL CIVIL APPLICATIONNo 6427 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.P.BUCH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MANAGER, GANDHINAGAR NAGRIK CO-OP. BANK LTD.

Versus

VINUBHAI KANTILAL PATEL

Appearance:
1. LETTERS PATENT APPEAL No. 1233 of 2001
MR PRABHAKAR UPADYAY for Appellant No. 1
MS ASHA H GUPTA for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.P.BUCH

Date of decision: 09/11/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

Admit. Learned advocate Ms. Asha H. Gupta waives service of notice on behalf of the respondent. At

the request of the learned advocates, the appeal is finally heard today.

2. The short question is whether during the pendency of the T-application filed by the respondent on the subject matter of the termination of his service, the appellant can be restrained from recovering the amount of housing loan given to the respondent-workman by the appellant by the trial court.

3. At the time of hearing of this appeal, learned advocate Ms. Gupta appearing for the respondent has fairly submitted in pursuance of the instructions received by her from the respondent, who is personally present in the court, that the amount of provident fund payable to the respondent may be adjusted against the amount, which is sought to be recovered by the appellant - Bank by way of housing loan including the interest thereon.

4. It is clarified that if, the amount of provident fund, which is to be paid to the respondent - workman is not sufficient to recover the entire amount of loan which is to be paid by the respondent - workman, it would be open to the appellant - employer to recover the balance amount of loan alongwith interest thereon in accordance with law. The respondent workman shall cooperate the appellant - employer and it is directed that the appellant - employer shall execute all necessary documents which may be necessary for getting the amount of provident fund adjusted.

5. It is clarified that if, ultimately the respondent - workman succeeds in the T-application and he is reinstated in the service, the amount of provident fund and the amount of unpaid housing loan should be readjusted against each other.

6. The direction given by the learned Single Judge with regard to the expeditious hearing of the T-application shall remain as it is and it is hope that the T-application shall be disposed of as soon as possible. Learned advocate Mr. Upadhyay appearing for the appellant has assured this court that the appellant shall not pray for time before the trial court unless there is a justifiable reason and shall give full cooperation to the trial court so that the matter pending before the trial court can be concluded as early as possible.

7. Needless to say that the consent given by the

respondent - workman for getting his provident fund amount adjusted against the recovery of the loan shall not mean or shall not give any indication that the service of the respondent workman had rightly come to an end in pursuance of the resignation submitted by him.

8. The order of the learned Single Judge is quashed and set aside to the above extent and the order of injunction granted by the lower court is also set aside. The appeal stands disposed of as allowed with no order as to costs.

(A.R. Dave, J.)

(D.P. Buch, J.)
pallav